

FILED  
COURT OF APPEALS  
DIVISION II

2017 DEC -4 AM 11:01

STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

NO.

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION II

---

In re the Personal Restraint of

JOB M. EDWARDS,

Petitioner.

---

**PERSONAL RESTRAINT PETITION**

---

ROBERT M. QUILLIAN  
ATTORNEY FOR PETITIONER  
WSBA NO. 6836

2633-A Parkmont Lane SW  
Olympia, WA 98502  
(360)352-0166

### **A. STATUS OF PETITIONER**

JOB M. EDWARDS applies for relief from the Judgment and Sentence of the Pierce County Superior Court in cause number 12-1-04068-2. The Judgment & Sentence in that matter was entered on January 6, 2014. The Petitioner is currently incarcerated in the Department of Corrections at the Stafford Creek Corrections Center pursuant to that Judgment & Sentence.

By Amended Information filed on March 15, 2013, the Petitioner was charged in Pierce County Superior Court with Count I: Unlawful Possession of a Controlled Substance with Intent to Deliver, Count II: Conspiracy to Possess a Controlled Substance with Intent to Deliver, Count III: Unlawful Use of Building for Drug Purposes, Count IV: Kidnapping in the First Degree, and Count V: Felony Harassment. CP 11-14. Count II was ultimately severed and later dismissed by the State without prejudice. Counts I, IV, and V each contained firearm enhancement allegations, alleging the possession of three firearms during the commission of the crimes.

Following a jury trial, the Petitioner was convicted as charged as to Counts I, III, and V, and was convicted of the lesser offense of Unlawful Imprisonment as to Count IV. CP 714-19. The jury found in the affirmative as to all nine firearm enhancements as well. CP 720-28. The Petitioner was sentenced to 234 months of confinement. CP 790. Due to the firearm enhancements, 216 of these months were “flat time” that ran consecutively.

The Petitioner filed a timely direct appeal to the Court of Appeals of the State of Washington, Division II, which was heard under case number 45764-4-II. That appeal, which raised issues concerning sufficiency of the evidence, evidentiary and suppression of evidence rulings, instructional error, prosecutorial misconduct, and issues concerning the firearm sentence enhancements, was granted in part and denied in part by the Court of Appeals in an Unpublished Opinion dated March 1, 2016. The Court of Appeals' Mandate was issued on December 2, 2016.

The Petitioner has not filed any other petition with this court or with any other court with regard to the Judgment and Sentence of the Pierce County Superior Court.

#### **B. STATEMENT OF GROUNDS FOR RELIEF**

**(NOTE: PORTIONS OF THE RECORD ARE NOT INCLUDED HEREIN, DUE TO THE DEFENSE MOTION, FILED CONCURRENTLY HERewith, THAT THE PREVIOUSLY FILED REPORT OF PROCEEDINGS, CLERK'S PAPERS, AND EXHIBITS IN THE DIRECT APPEAL BE TRANSFERRED FROM THE COURT OF APPEALS CASE NUMBER 45764-4-II AND UTILIZED AS THE RELEVANT DOCUMENTS IN THIS PERSONAL RESTRAINT MATTER AS WELL.)**

#### **Statement of Facts**

In October, 2012, Job Edwards lived downstairs in a split level home in Bonney Lake, Washington. RP 144. Job's brother, Michael Edwards, and Michael's girlfriend, Krystal Freitas, lived upstairs. RP 144. Other than a shared kitchen upstairs, both had complete living areas.

Job has Charcot Marie Tooth (CMT) disorder and Factor V Leiden. Ex 43 at 12. CMT disorder causes nerve degeneration. Ex. 43 at 13. A person may experience sensations of burning, stabbing, numbness, and tingling. Ex 43 at 13. The condition is progressive and becomes worse over time. EX 43 at 17. Factor V Leiden is an inherited disorder that causes blood clotting. EX 43 at 15. Due to this latter condition, Job has problems with his left leg. Ex 43 at 15. To manage these conditions, Job has been taking prescription pain medications since being diagnosed in his teens. Ex 43 at 12, 19.

Krystal was addicted to oxycodone RP 149, 153, 169. She began taking pain medications after a back surgery in 2006 due to an injury. RP 152-53. She had prescriptions for oxycodone. RP 154, Ex. 21 She sold pills and had around ten to fifteen customers around October, 2012. RP 159. Michael also had prescriptions for oxycodone. Ex 20. Through Krystal, he sold pills and had about five customers of his own. RP 158-59. According to Krystal, in 2012 Job would occasionally sell some of his pills to Michael, but to no one else. RP 156, 158. Krystal estimated that 98 percent of sales she conducted were outside of the home. RP 167. She often sold without Michael's knowledge. RP 28, 159.

One of Krystal's regular customers was a woman named Stevie Geeson. RP 119, 438-40. Stevie was addicted to oxycodone. RP 83, 118. Stevie testified that she bought Percocet, which have 30 milligrams of oxycodone per pill, from Krystal. RP 438, 452-53. While some transactions occurred in Krystal's home, most usually happened outside the home at gas stations, parking lots, or down the road. RP 99, 439. Michael was sometimes

with Krystal. RP 439. Job was never present. RP 439, 447. In at least one purchase that was immediately outside of the home, Krystal told Stevie to be quiet and pointed at Job's bedroom window. RP 440. While Stevie knew of Job, she first saw him in court in this case. RP 439-40.

Stevie's younger brother, Colton, testified that he sometimes accompanied Stevie when she went to buy pills from Krystal and Michael. RP 117, 128. Colton also abused oxycodone. RP 452. He bought Percocet from Krystal and got pills through Stevie. RP 117, 121-22. Until October 25, 2012, he had never seen Job and had never been inside the home. RP 124.

Stevie had a friend named Donald Thomas, who used the alias DJ. RP 87, 323. Stevie introduced DJ to Colton in 2012. RP 87, 125. DJ was a drug dealer. RP 87. DJ had robbed people before and asked Stevie if she knew of any drug dealers he could rob. RP 442. DJ told her that he made his money by robbing drug dealers. RP 445. Stevie and Colton were aware that DJ had a gun. RP 94. DJ sometimes spent the night at Colton's place. RP 90. Colton's fiancée thought DJ was dangerous and did not want him in their home. RP 126, 129.

Stevie asked Colton if he would arrange for DJ to buy Percocet from Krystal. RP 90. Colton agreed. RP 90. The plan was that DJ would buy fifty Percocet from Krystal for \$1,500. RP 94. For setting up the deal, Colton would receive \$100 from DJ. RP 91.

On October 25, 2012, Colton texted Krystal asking about buying Percocet. RP 90-91, 164. Krystal agreed to the sale. RP 91. Colton and DJ went to Krystal's house. RP 96.

Colton assumed that DJ was crying his gun. RP 94. Colton at first led Krystal to believe that he was coming by himself. RP 165. About 30 minutes before they met, Colton told Krystal that another person was coming with him and that he would not let him come alone. RP 165, 172-73.

They pulled up to the house in DJ's car shortly before 4:00 p.m. RP 92-93, 96, 326-27. As the car arrived, Job, who had been outside smoking a cigarette, went inside and downstairs to his room. RP 323-24. Krystal intended that the deal take place in the driveway next door, but Michael, who was with her, was uncomfortable and told Krystal to complete the deal inside. RP 173-74. Krystal had not spoken to Job that day. RP 215.

Krystal introduced Colton to Michael. RP 97. Michael, Krystal, Colton, and DJ entered the house and went upstairs to the living room area. RP 174-75. Krystal showed Colton and DJ the pills. RP 97, 175. As Michael started to walk towards his bedroom down the hall, DJ pulled out his gun, put it to Michael's head, and demanded: "Give me the fucking pills." RP 97, 177. Michael and DJ began to fight in the area in front of the staircase. RP 98, 177-78. Krystal tried to run away, but DJ grabbed her, hit her with his gun, and commanded her to "stay the fuck down." RP 177. Michael yelled for Job to help. RP 98, 177.

Job, downstairs in his room, heard the cry. RP 175, 324. Job grabbed his gun and began making his way upstairs. RP 324. He encountered DJ as he was coming upstairs near the landing by the front door. RP 99, 324. DJ may have been making his way down the stairs from the living room. RP 99. Job saw DJ raise his right arm. RP 324. While

unsure whether DJ was armed, Job was afraid he was going to be shot. RP 324. Job fired multiple shots and DJ went down. RP 324.

After Colton heard gunshots, Michael appeared next to him with a shotgun. RP 99. Colton testified that Michael pointed the shotgun at him and told Colton that he had to kill him. RP 99. Job was not present. RP 133. Colton showed Michael he was unarmed. RP 99. Colton testified that he backed up to a sliding door near the kitchen and went outside. RP 100. He saw a little girl next door and asked her to call the police as someone had been shot. RP 100. Michael walked up to him with the shotgun and told him to get back inside. RP 100. Colton followed Michael to the platform by the front door where DJ was lying. RP 101.

Colton claimed he did not know that DJ was going to try to rob Krystal. RP 102. Colton said he would leave, that he would take DJ with him, that they would not see them again, and that he would not talk to the police. RP 102-103. He did not recall Job saying anything to him. RP 102. Michael and Krystal led Colton outside. RP 101, 104. By this point, Michael had secured DJ's gun on his person. RP 104-105.

Using a button in the back of the garage, Job opened the garage door and Colton slowly drove in. RP 104. Colton perceived that Job had his gun on him as he got out of the car. RP 104, 106. Michael had dragged DJ down the stairs to the entrance to the garage inside the house. RP 106-07. Michael told Job to close the garage door, but the door would not close. RP 107. At this point, Colton ducked under the garage door and ran across the street. RP 107-08. He eventually found a neighbor who let him use a phone.

RP 108. After calling his sister and his father, Colton called 911. RP 108-09. Colton left Stevie a message admitting that he and DJ tried to “jack” Krystal, and that DJ had been shot. RP 446-47. About two minutes after the 911 call, the police arrived. RP 109. Around the same time, Michael called 911. RP 232.

Colton testified that while Job had pointed his gun at him, Job had not threatened to kill him, had not been present when Michael threatened to kill him, had not ordered him to move DJ’s body, had not touched DJ’s body, and never demanded that he do anything. RP 131-33. Krystal did not recall Job threatening to kill Colton or commanding Colton to do anything. RP 216.

### **Argument**

At trial, the defense proposed jury instructions regarding the lawful use of force. WPIC 17.03 and WPIC 17.02 were both proposed by the defense, but only WPIC 17.03 was given by the trial judge, who opined that giving both instructions would be confusing to the jury. RP 479-81. Additionally, it must be noted, as particularly relevant to this Personal Restraint Petition, that WPIC 17.02 and WPIC 17.03 were only proposed in the context of Count IV, the Kidnapping in the First Degree charge. There were no such jury instructions proposed as providing a potential defense to the charge in Count V, Felony Harassment.

The Court of Appeals, in its March 1, 2016, opinion, reversed and vacated the Petitioner’s conviction for Unlawful Imprisonment, along with the three firearm sentence enhancements attached thereto. The basis for this reversal and vacation was the error



committed by the trial judge in refusing to give the defense proposed jury instruction WPIC 17.02. The portion of the March 1 opinion which addressed this issue, and which contains the Court of Appeal's analysis and reasoning in this regard is attached hereto as Appendix A.

Perhaps the most compelling aspect of the Court of Appeal's decision is footnote 6, which reads, in full, as follows:

It could be argued that our self-defense analysis that caused Job's unlawful imprisonment to be reversed also could apply to Job's felony harassment charge as well. However, Job failed to propose a WPIC 17.02 instruction for felony harassment below and failed to raise this issue directly in his appellate briefing. Accordingly, we do not reach that issue.

This Personal Restraint Petition is filed to specifically address that issue.

The analysis of the Court of Appeals, set forth in Appendix A, clearly establishes that WPIC 17.03 and WPIC 17.02 are not mutually exclusive, and that there would be no confusion if both were given to a jury. The Court's analysis addresses the charge of Unlawful Imprisonment only, but there is no reason, as essentially acknowledged by the Court in footnote 6, to distinguish between the facts giving rise to the Unlawful Imprisonment charge and the facts giving rise to the Felon Harassment charge. Exactly the same set of facts which gave rise to the Unlawful Imprisonment charge also gave rise to the Felony Harassment charge, and those facts created, as clearly stated by the Court of appeals as to the Unlawful Imprisonment count, the arguable justification for the use of reasonable force towards Colton, who had clearly participated in the attempted robbery and the introduction of weapons into the household.

The use of a **threat** of force or harm is just as valid as the actual use of force or the imposition of harm where the facts present the possibility that a jury may find a defendant to have acted in self-defense. In this regard, see *State v. Smith*, 111 Wn. 2d 1, 9, 759 P. 2d 372 (1988). It would be completely counter-intuitive for an individual to be legally entitled to use actual force, but to be prohibited from using the mere threat of force in a situation where such force might be justified, and the law does not make that distinction in any way.” An individual who is privileged to cause injury undeniably is privileged to threaten to do so. “*Id.*, at 9. Moreover, “under certain circumstances necessary force may include putting s trespasser in fear of physical harm.” *State v. Bland*, 128 Wn. App. 511, 517, 116 P. 3d 428 (2005).

When there is some evidence of self-defense, the defendant is entitled to the pertinent elf-defense jury instruction. *State v. Walden*, 131 Wn. 2d 469, 473, 932 P. 2d 1237 (1997). {O}ne the defendant produces some evidence, the burden shifts to the prosecution to prove the absence of self0defense beyond a reasonable doubt. *Id.*, at 473.

The above well-established principles were put to clear use by the Court of Appeals in reversing and vacating the Unlawful Imprisonment conviction and the accompanying three firearm sentence enhancements. The exact same rationale, as virtually conceded by the Court of Appeals in footnote 6, should lead to a similar result as to the Felony Harassment charge. The argument and analysis is virtually identical.

Of course, as pointed out by the court of Appeals in footnote 6, this issue was not raised in the initial direct appeal by the Petitioner, nor was a jury instruction as to self-

defense proposed at all by trial counsel.

### **Ineffective Assistance of Counsel**

It is submitted by the Petitioner herein that he was denied his constitutional right to due process and a fair trial due to the failure of his counsel to provide him with effective assistance of counsel at trial.

A criminal defendant claiming ineffective assistance of counsel must prove (1) that the attorney's performance was deficient, i.e. that the representation fell below an objective standard of reasonableness under the prevailing professional norms, and (2) that prejudice resulted from the deficient performance, i.e. that there is a reasonable probability that, but for the attorney's unprofessional errors, the result of the proceeding would have been different. *State v. Early*, 70 Wn. App. 452, 460, 853 P. 12d 964 (1993), review denied, 123 Wn. 2d 1004 (1994); *State v. Graham*, 78 Wn. App. 44, 56, 896 P. 2d 704 (1995). Competency of counsel is determined based on the entire record below. *State v. White*, 81 Wn. 2d 223, 225, 500 P. 2d 1242 (1972) (citing *State v. Gilmore*, 76 Wn. 2d 293, 456 P. 2d 344 (1969)). A reviewing court is not required to address both prongs of the test if the defendant makes an insufficient showing on one prong. *State v. Tarica*, 59 Wn. App. 368, 374, 798 P. 2d 296 (1990).

Utilizing the above principles, it is the position of the Petitioner herein that his counsel provided ineffective assistance of counsel in failing to propose any sort of jury instruction, whether it was WPIC 17.02 or WPIC 17.03, positing the defense of self-defense or lawful use of force. It is clear that such a jury instruction should have been

proposed, and the Court of Appeals has so found in its March 1, 2016, opinion, as to the Unlawful Imprisonment count. It found reversible error in the trial court's failure to give WPIC 17.02, and strongly hinted that similar reversible error had occurred as to the Felony Harassment count as well. There is no way to read the facts of this case, and the reasoning of the Court of Appeals and reach any other conclusion that had WIC 17.02 been offered at trial, it should have been given, as there is no reason to distinguish between the two counts.

As to the specific showing required in a claim of ineffective assistance of counsel, it seems clear that, based upon the Court of Appeals' March 1 opinion, the failure to propose a self-defense jury instruction as to the count of Felony Harassment fell below an objective standard of reasonable professional norms, in that there was no valid tactical reason not to seek such an instruction as to that count. Second, given the strong rationale of the Court of Appeals as to the Unlawful Imprisonment count, and the resultant reversal and vacating of that count on these grounds, it seems clear that the outcome would have been different had trial counsel provided effective assistance and requested the self-defense jury instruction.


### **C. CONCLUSION AND PRAYER FOR RELIEF**

Based on the arguments set forth herein, this court should grant the Petitioner's Petition and reverse and vacate his conviction for Felony Harassment or, at the very least, remand the case to the trial court for an evidentiary hearing as to the allegations of

ineffective assistance of counsel herein.

DATED this 2nd day of December, 2017.

Respectfully submitted,

  
\_\_\_\_\_  
ROBERT M. QUILLIAN,  
Attorney for Petitioner  
WSBA #6836

### DECLARATION OF COUNSEL

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

Dated this 2nd day of December, 2017.

  
\_\_\_\_\_  
ROBERT M. QUILLIAN

### CERTIFICATE

I certify that I mailed a copy of the Personal Restraint Petition by depositing same in the United States Mail, first class postage prepaid, to the following people at the addresses indicated:

Pierce County Prosecuting Attorney  
946 County-City Building  
930 Tacoma Avenue South  
Tacoma, WA 98402

Mr. Job M. Edwards  
#371462  
Stafford Creek Corrections Center  
191 Constantine Way  
Aberdeen, WA 98520

DATED this 2nd day of December, 2017.

  
\_\_\_\_\_  
ROBERT M. QUILLIAN, WSBA #6836  
Attorney for Petitioner

## **EXHIBIT A**

**Portion of Court of Appeals Unpublished Opinion  
dated March 1, 2016**

## I. Failure to Instruct on WPIC 17.02

Job argues that his unlawful imprisonment conviction should be reversed because the trial court erred in denying the instruction he requested based on WPIC 17.02. For the reasons below, we agree that Job was entitled to have WPIC 17.02 submitted to the jury, since substantial evidence in the record supported that self-defense theory.

Job asked the trial court to issue the following instruction based on WPIC 17.02:

It is a defense to a charge of Unlawful Imprisonment that the force used was lawful as defined in this instruction

The use of force upon or toward the person of another is lawful when used by a person who reasonably believes that he is about to be injured or by someone lawfully aiding a person who he reasonably believes is about to be injured in preventing or attempting to prevent an offense against the person, and when the force is not more than is necessary.

The use of force upon or toward the person of another is lawful when used in preventing or attempting to prevent a malicious trespass or other malicious interference with real or personal property lawfully in that person's possession, and when the force is not more than is necessary.

The person using the force may employ such force and means as a reasonably prudent person would use under the same or similar conditions as they appeared to the person, taking into consideration all of the facts and circumstances known to the person at the time of the incident.

The State has the burden of proving beyond a reasonable doubt that the force used by the defendant was not lawful. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty as to this charge.

Clerk's Papers (CP) at 750.

The trial court denied this instruction stating, "I think I have got an obligation not to confuse them." RP at 481

Because if you look at just the heading of 17.02, it's defense of self, others or property defense, as opposed to 17.03, it's lawful force, detention of a person. So 17.03 really applies to [Geeson] because that's who alleged to be the victim of the kidnapping. And 17.02 is defending self, others or properties which applies to CJ [sic].

So I think that confuses the jury, to give 17.02 as well as 17.03, so that's my inclination, is to give that one.

RP at 481. Later, the court expanded on its reasoning for denying the WPIC 17.02 instruction.

17.02 is the self-defense instruction. And as I indicated, I gave 17.03 plus some of the instructions that go with 17.02 and 17.03.

With regard to that lawful instruction, I am convinced the more I look at that WPIC instruction that that instruction is not applicable to this case and it's actually, if you read the instruction, that instruction alone, it's kind of a redundant instruction. It really doesn't tell you anything.

RP at 500.

The trial court instead instructed the jury as follows, based on WPIC 17.03:

It is a defense to a charge of . . . Felony Harassment that the force used was lawful as defined in this instruction.

A person who lawfully possesses a building may use force to detain someone who unlawfully enters or remains in the building when:

- (1) it is reasonably used for that purpose; and
- (2) the manner and duration of such detention is reasonable to investigate the reason for the detained person's presence on the premises; and
- (3) the premises in question did not reasonably appear to be open to members of the public; and
- (4) the person using the force employs such force and means as a reasonably prudent person would use under the same or similar conditions as they appeared to the person, taking into consideration all of the facts and circumstances known to the person at the time of and prior to the incident.

The State bears the burden of proving beyond a reasonable doubt that the force used by the defendant was not lawful. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty as to this charge.

CP at 703.

A defendant is entitled to have his or her theory of the case submitted to the jury under appropriate instructions when substantial evidence in the record supports that theory. *State v. Knutz*, 161 Wn.App. 395, 403, 253 P.3d 437 (2011). The State argues that the trial court properly made a determination that the facts applied more closely to self-defense on the shooting (DJ), not on the detaining of a person (Geeson). Therefore, the State contends, Job was still able "to argue his theory of the case, which was that he was not guilty of felony harassment and kidnapping because he was using lawful force to detain [Geeson] as someone who was attempting to rob them." Br. of Resp't at 18. We disagree.

Under these facts, DJ's pulling a gun and attempting to burglarize and possibly kill Michael and Freitas supplied the main theory of self-defense which could justify Job's use of force to keep Geeson in the house (a WPIC 17.02 theory)-not that Geeson had just unlawfully trespassed into the home and Job was detaining him to investigate his presence there (a WPIC 17.03 theory). Job's self-defense theory could have been that he reasonably feared for Michael's, Freitas's, and his own life and that he continued to fear while he had his gun pointed at Geeson throughout the incident. Arguably, after Geeson stripped and showed that he was unarmed, the threat of harm



was alleviated and a WPIC 17.02 theory became more remote. However, there was still substantial evidence for a juror to believe that the dangers associated with the immediate aftermath of this armed robbery warranted Job in using the amount of force that he did against Geeson: not to merely detain an intruder, but to use necessary force to protect himself, Michael or Freitas.

Furthermore, after Job's defense counsel offered the WPIC 17.02 instruction, the prosecutor agreed not to object. The prosecutor specifically stated that he did not object to the WPIC 17.02 instruction because he "would feel like an absolute fool if [an appellate court] told us, 'You should have used both instructions.'" RP at 480-81. Despite the prosecutor's insistence, the trial court stated it would still confuse the jury to instruct on both WPIC 17.02 and WPIC 17.03 and denied the instruction. However, we do not believe it was confusing to instruct on both WPIC 17.02 and WPIC 17.03, since each instruction applied to a different self-defense theory arguably supported by the evidence.

Substantial evidence in the record supported a WPIC 17.02 theory of the case, and instructing on both WPIC 17.02 and WPIC 17.03 would not have been unduly confusing. Accordingly, we hold that the trial court abused its discretion in refusing the instruction based on WPIC 17.02.

An error affecting a defendant's self-defense claim is constitutional in nature and requires reversal, unless it is harmless beyond a reasonable doubt. *State v. Arth*, 121 Wn.App. 205, 213, 87 P.3d 1206 (2004). The trial court's refusal to give the requested instruction prevented Job from arguing his theory of self-defense under WPIC 17.02 and was thus not harmless beyond a reasonable doubt. We therefore reverse the unlawful imprisonment conviction and the three firearm enhancements that were attached to that conviction.

## II. Sufficiency of Evidence

Job argues that there is insufficient evidence to support his remaining convictions and some of the attached firearm enhancements.<sup>[5]</sup> We disagree.

### 1. *Standard of Review*

Evidence is sufficient to support a conviction or sentencing enhancement if, viewed in the light most favorable to the State, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. McPherson*, 186 Wn.App. 114, 117, 344 P.3d 1283, review denied, 183 Wn.2d 1012 (2015); *State v. Hennessey*, 80 Wn.App. 190, 194, 907 P.2d 331 (1995). "A claim of insufficiency admits the truth of the State's evidence and all reasonable inferences that a trier of fact can draw from that evidence." *State v. Notaro*, 161 Wn.App. 654, 670, 255 P.3d 774 (2011). "All reasonable inferences from the evidence must be drawn in favor of the verdict and interpreted strongly against the defendant." *Id.* "Circumstantial evidence is no less reliable than direct evidence." *Id.* We must "defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence." *State v. Thomas*, 150 Wn.2d 821, 874-75, 83 P.3d 970 (2004).

### 2. *Felony Harassment*

Michael threatened Geeson by pointing a shotgun at him and saying, "I got to kill you now. I'm sorry. I got to." RP at 99. Job then pointed a gun at Geeson throughout the incident. Job argues that there is insufficient evidence to show (1) that he was an accomplice to Michael's harassment

2017 DEC -4 AM 10:58

STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

IN THE COURT OF APPEALS  
STATE OF WASHINGTON  
DIVISION II

STATE OF WASHINGTON,	)	
	)	NO.
Respondent,	)	
	)	
vs.	)	MOTION RE: REPORT
	)	OF PROCEEDINGS, CLERK'S
JOB M. EDWARDS,	)	PAPERS, AND EXHIBITS
	)	
Petitioner.	)	

COMES NOW the counsel for Petitioner, and moves the Court for an Order transferring the Report of Proceedings, Clerk's Papers, and Exhibits from Court of Appeals Case number 45764-4-II to the current Personal Restraint Petition file.

1. Identity of Moving Party

The Petitioner asks for the relief designated in Part 2.

2. Statement of Relief Sought

Transfer of all file materials, including the Report of Proceedings, Clerk's Papers, and Exhibits from case direct appeal case number 45764-4-II to the current Personal Restraint Petition file.

3. Facts Relevant to Motion

Due to the fact that the Report of Proceedings and other materials have been filed in

MOTION RE: REPORT  
OF PROCEEDING, ETC - 1


ROBERT M. QUILLIAN  
Attorney at Law  
2633-A PARKMONT LANE S.W.  
Olympia, Washington 98502  
(360) 352-0166

1 case number 45764-4-II, and due to the fact that the same proceedings and file materials  
2 are at issue in this Personal Restraint Petition matter, it would serve the ends of judicial  
3 economy to transfer, for the Court's consideration, the Report of Proceedings and other file  
4 materials to this current Personal Restraint Petition matter from the prior direct appeal case  
5 in cause number 45764-4-II.

6 4. Grounds for Relief

7 The reasons for the requested relief are stated above.

8 DATED: December 2, 2017.

9  
10  
11   
12 ROBERT M. QUILLIAN,  
13 Attorney for Petitioner  
14 WSBA #6836

FILED  
COURT OF APPEALS  
DIVISION II  
2017 DEC -4 AM 11:01  
STATE OF WASHINGTON  
BY DEPUTY


15 CERTIFICATE

16 I certify that I mailed a copy of the above motion by depositing same in the United  
17 States Mail, first class postage prepaid, to the following people at the addresses indicated:

18 Pierce County Prosecuting Attorney  
19 946 County-City Building  
20 930 Tacoma Avenue South  
Tacoma, WA 98402

Mr. Job M. Edwards  
#371462  
Stafford Creek Corrections Center  
191 Constantine Way  
Aberdeen, WA 98520

21 DATED this 4<sup>th</sup> day of December, 2017.

22  
23   
24 ROBERT M. QUILLIAN, #6836  
25 Attorney for Petitioner

26 MOTION RE: REPORT  
OF PROCEEDING, ETC - 2

ROBERT M. QUILLIAN  
Attorney at Law  
2633-A PARKMONT LANE S.W.  
Olympia, Washington 98502  
(360) 352-0166